



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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June 3, 2008

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Comments on NOAA's DEIS for Snapper-Grouper
Amendment 16; South Atlantic Fishery Management Council; South
Atlantic Region; CEQ No. 20080150; ERP No. NOA-E91023-00

Dear Dr. Crabtree:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's (NOAA) Draft Environmental Impact Statement (DEIS) for Snapper-Grouper Amendment 16. The DEIS was prepared for NOAA/NMFS by the South Atlantic Fishery Management Council (Council). EPA has recently commented on other Snapper-Grouper amendments (15A & 15B).

Amendment 16 is to end overfishing for the gag grouper (*Mycteroperca microlepis*) and vermilion snapper (*Rhomboplites aurorubens*). Specifically, it provides interim catch allocations to both the commercial and recreational sectors, updated management reference points, requirements for reducing bycatch, and follow-up options for the NMFS Regional Administrator (RA) to adjust management measures based on the results of updated SEDAR fisheries data which are currently still pending.

Overall, EPA supports fishery management efforts that restore declining stocks experiencing overfishing or that are overfished. Based on the DEIS, the gag grouper is experiencing overfishing (but is not overfished: pg. XIX) while the overfished status of the vermilion snapper is unknown (pg. XXIII). We offer the following comments for consideration in the development of the Final EIS (FEIS) by NOAA and the Council.

► **General**

* Overfished Status – The FEIS should discuss why the overfished status of the vermilion snapper is unknown.

* Interim Management – We assume that interim management (allocations, etc.) are being offered at this time since updated SEDAR fishery data are not yet gathered and analyzed. The EIS provides for RA management adjustment options (six alternatives) for vermilion snapper that range from 10-60% harvest reductions once the new data are evaluated. We suggest that the FEIS indicate when the new SEDAR data would be available and why it was determined that an EIS amendment was necessary at this time using older data and when species are technically not overfished or are of unknown status. Although we generally support early implementation of management methods for the benefit of rapid resource recovery, the FEIS should further discuss the basis of such interim management, how long it would take for updated data to be available, how critical the need for modification is at this time, and the reliability of the older dataset. It is also unclear if updated SEDAR data are being pursued for both species or only the vermilion snapper since RA alternatives are only provided for the snapper (Table A: pg. XXVI). It is therefore unclear why interim management measures are also provided for the gag grouper or why RA alternatives are not also provided for the grouper. The FEIS should discuss this.

Overall, we do not oppose such an interim approach if the current dataset is still reliable and the managed species are therefore benefited earlier, as long as appropriate adjustments are implemented in the near future using updated data. We note that one disadvantage to using interim allocations and management measures is the confusion that could eventuate within the fishing community if limitations and their enforcement are changed within a short timeframe (i.e., different current vs. interim vs. future allocations and management measures are implemented).

► Alternatives

We appreciate that several alternatives for several proposed actions were presented and that preferred alternatives were already identified in the DEIS. We defer to NOAA and the Council as to the development of fishery statistics and the relative importance of the commercial and recreational fisheries for each species. However, we offer the following comments and suggestions on management methods and approaches:

Gag Grouper (Interim Allocation Alternatives)

+ Preferred Alternative 2 – It is unclear why allocations are based on 1999-2003 data when apparently (Alt. 1) more recent data (2004-2005) exist. We defer to NOAA and the Council regarding a preference for the 51% allocation to commercial sector and 49% allocation to the recreational sector versus the significantly different percentages offered in Alternatives 3 and 4.

Gag Grouper (Management Alternatives)

+ Preferred Alternative 2 (Spawning Season Closure) – We typically agree with the use of time and area closures to recover seriously declining stocks. In this case, the closure is

during spawning season which we also support to maximize recruitment. We defer to NOAA and the Council as to the closure timeframe and its societal effects.

+ Preferred Alternative 3 (Directed Commercial Quota) – This option appears reasonable, although dividing the quota into two regions is also reasonable since it might defuse the potential for a derby-type fishing approach to rapidly catch the quota (i.e., one region may be better fishers than the other and land more than its share). Splitting the quota by region would be critical if the regions had different fishing seasons. If this is the case, we would favor Alternative 4 with an appropriate regional division based on fishing effort in the two regions.

+ Preferred Alternative 5a (Recreational Measures) – This alternative would “...exclude the captain and crew of for-hire vessels from possessing a bag limit for groupers.” The FEIS should clarify if “excluding” captain and crew from possessing a bag limit means that they are excluded from catching any gag at all or they are excluded from having any bag limit and therefore could catch as many gag as desired. EPA would favor 5a over 5b (if the 36% vs. 42% harvest reduction, respectively, is still adequate for rapid species recovery) since only a reduction in catch (bag limit) would be instituted for recreational fishers rather than a potentially harsher time closure (December) of no fishing at all. Preference input from the recreational sector would be useful in choosing between 5a and 5b, since both management measures have similar restoration results.

Vermilion Snapper (Interim Allocation Alternatives)

+ Preferred Alternative 2 – We defer to NOAA and the Council regarding the level of division between the commercial (68%) versus recreational (32%) allocations.

Vermilion Snapper (Management Alternatives)

+ Preferred Alternative 2 (Directed Commercial Quota) – Use of the above interim allocations year-round versus further subdivision into seasons (Alternatives 3a [preferred], 3b and 3c) should be further discussed in the FEIS. EPA will defer to NOAA and the Council regarding the benefits of the various offered timeframes; however, inclusion of the total reductions in harvest by alternative would be beneficial in the public’s gauging the effects of these options. We also suggest that use of seasonal allocations would be more difficult to enforce. If used, however, we agree that any leftover allocation should not rollover into the next calendar year, but rather remain unharvested to further benefit stock recovery.

+ Alternative 4 (Bag/Size Limits) – Changes in bag and size limits are often useful fishery management measures to recover a species. For deepwater reef fishes like vermillion snapper, however, regulatory increases in minimum size could be counterproductive if “shorts” are caught and brought to the surface and then discarded in a physiological state of shock from rapid pressure changes. Use of reduced bag limits for fish of the current minimum length may have more merit if many regulatory discards would die anyway after release (this may still occur despite the proposed bycatch options below). However,

we appreciate that Alternative 4 presents the percentages of total harvest reductions for each sub-alternative. Editorially, in the Alternative 1 description, we suggest that fish lengths be specified as total length (TL) or fork length (FL). We assume the metric is “TL” as in a 12 inch TL minimum size.

Reduction of Bycatch for Snapper-Grouper Species

+ Alternative 2c (Preferred) – EPA strongly supports the implementation and enforcement of techniques to reduce bycatch of non-target species (or immature target species) for both the commercial and recreational sectors. We therefore concur that Alternative 2c was identified as a preferred alternative. We particularly favor the use of circle hooks, venting techniques, and dehooking tools (preferably long-handled dehooking tools that allow some dehooking in the water). If not already the case, we suggest that the circle hooks also be sized to be larger than the mouth size of sub-minimum length fish to reduce the number of regulatory discards (i.e., illegal-sized fish could therefore not swallow the bait/circle hook). We note, however, that circle hooks may not be as popular with recreational fishers since anglers cannot set the hook like a J-hook (i.e., the fish would have to essentially catch itself by swallowing the bait and attempting to escape). The FEIS might provide an estimate as to how many gag grouper and vermilion snapper are fished with live bait (circle hooks) as opposed to artificial bait (J-hooks) to provide a perspective as to the potential for success by using circle hooks to reduce bycatch. Also, are fishers aware of venting techniques and, if not, how would they become skilled (programs, pamphlets, website, demos)?

RA Adjustments After Pending SEDAR Data for Vermilion Snapper

Alternative 2 (Preferred) – The RA’s alternatives have been discussed above under “Interim Management”.

► Summary & DEIS Rating

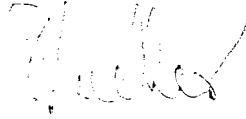
EPA supports Amendment 16 and defers to NOAA and the Council regarding the fisheries statistics used in its development. We therefore rate this DEIS an “LO” (Lack of Objections). We request, however, that our comments and suggestions be addressed in the FEIS.

Overall, the FEIS should further discuss the rationale for not delaying Amendment 16 until the pending SEDAR data are gathered and evaluated as opposed to the current approach to issue Amendment 16 with interim management measures and RA adjustment alternatives once SEDAR data are finalized. We do not oppose such an approach if the current dataset is still reliable and the managed species are therefore benefited earlier, as long as appropriate adjustments are implemented within the near future using updated data. However, it is also unclear why the RA adjustment alternatives were only offered for the vermilion snapper and not the gag grouper since interim management measures are also offered for both species. The timeframe for either

set of interim measures to become permanent – or to be adjusted and then become permanent – should also be clarified.

We appreciate the opportunity to review the DEIS. Should you have questions regarding these comments, feel free to contact Chris Hoberg of my staff at 404/ 562-9619 or hoberg.chris@epa.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "H. Mueller", is positioned above the typed name.

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc: Dr. Rodney F. Weiher – NEPA Coordinator (NOAA): Silver Spring, MD